

Appendix 27-A

Summary of Indigenous Consultation

Table 27-A.1: Summary of the Results of the Kainai Consultation Related to their Aboriginal Rights and Interests and Other Matters of Concern

Kainai Rights and Related Interest/VC	Kainai Perspectives on Rights and Interests/VC	Proponent Response	Summary of Proposed Measures to Avoid, Mitigate, or Otherwise Manage Effects	Summary of Assessment of Potential Impacts on Rights and Interests	Status of Issue / Path Forward
Traditional Use	<p>Issue included in the Project Meeting May 26, 2020</p> <p>Issue provided in the Draft Effects Assessment Response October 22, 2021</p> <p>Removal of access to lands for traditional purposes and impacts to Indigenous rights and interests.</p> <p>Recommend NWP wait until Kainai's traditional use information can be incorporated into the draft Effects Assessment before proceeding. In the intervening time, expect that Kainai's interests and asserted uses be incorporated into the effects assessment.</p>	<p>Potential residual effects including Kainai perspective within the Project footprint, the ATRI LSA, and ATRI RSA have been considered in the Application/EIS in the following ways:</p> <ul style="list-style-type: none"> The shared perspectives have formed the basis of the potential residual effects assessment with the overall assessment methodology documented in Chapter 5, Section 5.3 and the potential residual effects assessed in Chapter 27, Section 27.7.3.2. The potential residual effects assessment is based on inputs from the Kainai through engagement identified in Section 27.5.2 that outline the Kainai perspectives on the development of the Project. Key issues that remain outstanding and are included in the opportunities for future engagement are the incorporation of Kainai's traditional use information collection within the Project footprint and the ATRI LSA that is currently ongoing and should be incorporated into the assessment processes. The potential residual effects assessment for the Project utilizes Kainai information where publicly available to determine the level of significance of effects to the use of lands and resources for traditional activities are based on publicly available Kainai perspectives on development in the Elk Valley as outlined in Section 27.6.6. Impact management measures with respect to 	<p>The key mitigation measures to reduce impacts to the Kainai's rights and interests include:</p> <ul style="list-style-type: none"> NWP is committed to an ongoing dialogue with the Kainai, including commitments to the following: Best management practices and procedures related to each VC of interest including the design of mitigation measures as outlined in the Application/EIS. Follow-up, monitoring and offsetting and compensation programs related to anticipated residual effects of select VCs. Implementation of the engagement agreement between NWP and the Kainai. Confirmation and implementation of the Indigenous Impact Management Plan that outlines mitigation measures to avoid, minimize, reduce, and/or offset potential direct and indirect impacts of the Project and utilizes adaptive management approaches for follow-up strategies and monitoring programs. Consideration of collaborative strategies for addressing the cumulative effects where applicable, with the Kainai, the identified Indigenous Communities, other proponents, and regulatory agencies. Follow the spirit and intent of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and its guiding principles. Support the recognition of Indigenous stewardship and governance in the Elk Valley. Recognize and respect the deep personal, community, and cultural attachment of the Kainai to the land and resources where NWP does business. Incorporate NWP's understanding of Indigenous interests, values, knowledge, and ways of knowing into NWP decision making where practicable where practicable. To this end, NWP is committed to the Canadian Council for Aboriginal Business' Progressive Aboriginal Relations program . <p>In addition to the mitigations outlined in the specific VC chapters, the following mitigation measures are proposed to reduce the potential impact on the Kainai's rights and interests based on the response to</p>	<p>The Project has the potential to impact the Kainai's rights and interests related to:</p> <p>Fishing:</p> <ul style="list-style-type: none"> The potential for reduction in populations of fish species of interest due to impacts on fish habitat (though recognizing that habitat loss will be replaced with new habitat through the Fisheries Act required fish habitat compensation measures). The potential for temporary restrictions on access to the remaining sections of Alexander Creek due to Project activities (e.g., during blasting activities). The potential for change in water quality in Alexander Creek that could result in impacts to abundance and quality of fish species of interest and potential resulting in impact on traditional fishing activities. The potential changes to the actual or perceived health and quality of potential fish species of cultural interest/use for country foods. The potential for the permanent alienation of the Kainai from fishing locations within the Project footprint resulting in impacts to their ability to know and teach the Kainai way of living. <p>The degree in severity of impact on the Kainai's rights for the use of lands and resources for fishing and fish opportunities is rated as low to moderate based on the following:</p> <ul style="list-style-type: none"> The potential impacts to fish and fish habitat are predicted to be small in spatial extent. The recommended impact management measures and the Project's design to reduce impacts to fish and fish habitat VCs and the provision of fish habitat compensation, should allow for fishing opportunities to continue in the Elk Valley (other than the upper sections of West Alexander Creek) including those for traditional purposes. There is potential for the Project to result in the permanent alienation of the Kainai from fishing locations within the Project footprint, for which there is no current mitigation identified. It is further noted that that this physical alteration and potential change in the opportunity of the Kainai to practice related traditional activities (e.g., fishing) may also have impacts on intangible cultural heritage. Due to the lack of current information available on their use of the Project footprint for traditional purposes, understanding and characterizing these potential related impacts to their intangible cultural heritage requires further input from the Kainai. Though baseline data was sufficient to evaluate effects for the fish and fish habitat VCs, there is no current information available indicating that the Kainai use the watercourses within the Project footprint. The Kainai has also not expressed to date an interest in possibly using the Project-impacted watercourse (Alexander Creek) in the future. It should be noted that there is existing potential for fish and fishing opportunity available in the ATRI LSA and RSA with respect to watercourses outside of the Project footprint. <p>Continued consultation with the Kainai, as well as through the development of potential follow-up and monitoring and adaptive management measures regarding fish and fish habitat are expected to improve the confidence rating and the severity assessment of impact on the Kainai's rights and interests.</p>	<p>Issues have been considered in the effects assessment and are as documented in Chapters 4 and 27 of the Application/EIS.</p> <p>NWP is committed to ongoing communication on this issue through future consultation and engagement with the Kainai.</p>

Table 27-A.1: Summary of the Results of the Kainai Consultation Related to their Aboriginal Rights and Interests and Other Matters of Concern

Kainai Rights and Related Interest/VC	Kainai Perspectives on Rights and Interests/VC	Proponent Response	Summary of Proposed Measures to Avoid, Mitigate, or Otherwise Manage Effects	Summary of Assessment of Potential Impacts on Rights and Interests	Status of Issue / Path Forward
		<p>potential residual effects and where Kainai perspectives were available are addressed in Section 27.9.</p> <ul style="list-style-type: none"> The Kainai's rights and related interests are also assessed for potential impacts as a result of the residual Project effects and the residual cumulative effects in Section 27.10.2.1 where previous determinations on the degree of severity of adverse impacts were updated based on shared Kainai perspectives. NWP has also indicated in Chapter 27 that it is committed to ongoing communication on cumulative effects through future consultation and engagement with the Kainai. <p>As noted by NWP, limitations of information provided by the Kainai Band are identified in the setting of The Kainai's rights and interests in Section 27.6.6.</p>	<p>the concerns raised by the Kainai and the identified Indigenous Communities:</p> <ul style="list-style-type: none"> Engaging with the Kainai to refine the Indigenous Impact Management Plan specific to the rights-based activities and other interests (e.g., cultural activities, hunting, trapping, fishing, gathering, and cultural heritage) exercised by the Kainai within the Project footprint. The Indigenous Impact Management Plan will further describe cross-cultural awareness training, which will be developed in collaboration where practicable, with the Kainai. This training is expected to build awareness and reduce potential adverse interactions with the identified Indigenous Communities and will include cultural awareness education and training for staff and on-the-ground personnel during the applicable phases of the Project. Supporting possible opportunities to augment VC-specific monitoring programs to include responses to concerns raised by the Kainai utilizing adaptive management approaches for follow-up strategies. Participation in the Elk Valley Cumulative Effects Management Framework as co-led by the KNC. Encouraging the participation of the Kainai to the applicable Project Advisory, Environmental Stewardship, and in the Environmental Monitoring Committee to review, shape, and steer monitoring activities and to guide future priorities. Encouraging the participation of the Kainai in the Reclamation Planning Committee to review how traditional knowledge has been incorporated, including Indigenous traditional use and cultural expression as part of the Project closure goals. Supporting access to the Project site and provide applicable available resources for the Indigenous-Guardians Program to develop and lead monitoring programs related to the Project. Incorporating feedback from the Kainai in the development of an Access Management and Monitoring Program which would address any 	<p>Hunting and Trapping:</p> <ul style="list-style-type: none"> The potential localized changes in accessibility to wildlife associated with riparian vegetation/habitat. The potential for changes to accessibility to aquatic wildlife species of interest (e.g., waterfowl) with the change or loss of aquatic habitats. The potential for changes in wildlife food sources through changes to ecosystems/vegetation communities resulting in changes to wildlife species of interest movements/migrations. The potential stressor on wildlife population with increased access roads potentially attracting hunters, vehicle collisions, and increased road densities. The potential for reduction of the quality and accessibility of wildlife species of interest for traditional/cultural purposes or country foods. The potential for the permanent alienation of the Kainai from hunting and trapping locations within the Project footprint resulting in impacts to their ability to know and teach the Kainai way of living. <p>Though residual effects to wildlife VCs may occur as result of the Project, no significant adverse effects are anticipated and the potential impacts included will result in a temporary decline in the wildlife species available for use by the Kainai in hunting and trapping practices as well as the temporary impact to the accessibility of areas used to hunt and trap in the Project footprint and the ATRI LSA. The Project has the potential to impact on Kainai's Treaty 7 rights based on the above.</p> <p>In terms of specific wildlife VCs, bighorn sheep have important significance within the Kainai's spiritual and ceremonial teachings, songs, ceremonies, medicines, and stories as currently identified in Sections 27.5.4 and 27.6.6. Follow-up on impact management measures related to bighorn sheep are identified in Chapter 15, and included in the Indigenous Impact Management Plan (Section 27.9.2).</p> <p>The degree in severity of impact on the Kainai's rights and interests for the use of lands and resources for hunting and trapping is rated as low to moderate based on the following:</p> <ul style="list-style-type: none"> The potential impacts are likely to be small in spatial extent, reversible in the long term, and with few effects to health and/or country foods. Mitigation and the Project's design to reduce impacts to wildlife VCs and the implementation of management, monitoring, and reclamation plans, should allow for hunting and trapping activities to continue within the ATRI LSA including those for traditional purposes. With specific regard to bighorn sheep, as identified in Section 27.7.3.2.2, the population has a relatively stable trend and while the Project will result in loss of a relatively small amount of year-round high-quality habitat, none of which has been mapped as bighorn sheep winter range. Sensory disturbance has the potential to displace bighorn sheep in high-quality annual habitat, though it does not overlap with mapped winter range. Post-closure, the reclaimed mine landscape will provide abundant forage for bighorn sheep. Based on the characterization of the residual effects as identified above and the local and regional bighorn sheep population levels, the Project would not limit the ability of bighorn sheep to persist and maintain self-sustaining populations in the ATRI LSA. The residual effects of habitat loss and 	

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			<p>concerns raised regarding access to areas that might be temporarily restricted due to safety concerns (e.g., in the Project footprint during construction and operations) by creating alternatives to guarantee access to key land use areas. NWP will establish No Unauthorized Entry (NUE) areas in order to ensure worker and public safety within and near the Project.</p> <ul style="list-style-type: none"> Supporting the establishment of conservation lands that may be privately held by NWP, an Indigenous Community, or a recognized conservation organization. Supporting Indigenous work related to land and resource use planning objectives in proximity to the Project and following the EAC, NWP will support Indigenous work related to land and resource use planning objectives for consideration during the relevant Project phases. Providing access to requested reports and identify feedback opportunities where applicable including the various mitigation and monitoring plans as well as those related to the Indigenous Impact Management Plan. <p>For each potential impact as previously described and assessed in Section 27.7, the specific mitigation measures identified that relate to the Kainai's rights and interests are described in the following sections and are also summarized in Table 27.9-1.</p> <p>Key mitigation measures for each Kainai right/interest that may potentially be impacted include:</p> <ul style="list-style-type: none"> Fishing: The mitigation measures identified for the change to use of lands and resources for traditional fishing purposes are as identified in Chapter 12, Section 12.5.3 including the Fish and Fish Habitat Management Plan and the Ecological Restoration Plan. The operational practices and procedures that are prescribed in the Site Water Management Plan in Chapter 33 (Section 33.4.1.8) including selenium, nitrate, and calcite management, and the Noise and Vibration Management Plan (Section 33.4.1.7), the Vegetation and Ecosystems Management and Monitoring Plan (Section 33.4.1.11) and the Aquatic Effects Management Program 	<p>degradation, sensory disturbance, disruption to movement, and increased mortality on bighorn sheep arising from the Project during all phases are therefore considered not significant.</p> <ul style="list-style-type: none"> Though baseline data was sufficient to evaluate effects for identified wildlife VCs, areas currently or potentially used by the Kainai for hunting and trapping have not been identified within the Project footprint through publicly-available information. Information related to the Kainai's use of the ATRI LSA to hunt and trap was not made available prior to the assessment and the currently identified low level of use by the Kainai in the Project footprint, coupled with the lack of significant adverse effects to wildlife VCs that are potentially used for hunting and trapping purposes, indicates the level of impact on the Kainai's rights and interests related to the use of lands and resources for traditional hunting and trapping. There is potential for the Project to result in the permanent alienation of the Kainai from hunting and trapping locations within the Project footprint, for which there is no current mitigation identified. It is further noted that that this physical alteration and potential change in the opportunity of the Kainai to practice related traditional activities (e.g., hunting and trapping) may also have impacts on intangible cultural heritage. Due to the lack of current information available on their use of the Project footprint for traditional purposes, understanding and characterizing these potential related impacts to their intangible cultural heritage requires further input from the Kainai. Continued consultation with the Kainai, as well as through the development of potential follow-up and monitoring and adaptive management measures regarding wildlife VCs are expected to improve the confidence rating and the severity of impact on the Kainai's rights and interests. Harvesting and Gathering: <ul style="list-style-type: none"> The potential for reduction in the quality and accessibility of vegetation species of interest for traditional/cultural purposes or country foods. The potential for the permanent alienation of the Kainai from harvesting and gathering locations within the Project footprint. The residual effects on landscapes and ecosystems within the Project footprint due to the Rail Loadout, the road, and the Project infrastructure footprint may remove areas currently or potentially used by the Kainai to harvest and gather plants. The potential changes in vegetation communities/terrestrial ecosystems and introduction and colonization of invasive vegetation species that outcompete species of interest resulting in a loss of potentially traditionally/culturally important vegetation communities has the potential to impact on the Kainai's rights and interests. The potential for the permanent alienation of the Kainai from harvesting and gathering locations within the Project footprint resulting in impacts to their ability to know and teach the Kainai way of living. <p>The degree in severity of impact on the Kainai's rights and interests for the use of lands and resources for harvesting and gathering is rated as moderate based on the following:</p> <ul style="list-style-type: none"> The potential impacts are likely to be small in spatial extent, reversible long-term, with few effects to health and/or country foods while there is potential for the 	

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			<p>described in Section 33.4.1.5 will be the primary means by which the Project will address adverse effects to fish and fish habitat. These are identified in combination with the key mitigations for traditional fishing activities to reduce the impacts on the Kainai's fishing rights including those related to their ability to know and teach the Kainai way of living during all Project phases.</p> <ul style="list-style-type: none"> • Hunting and Trapping: The mitigation measures identified for the change to use of lands and resources for traditional hunting and trapping purposes are as identified in Chapter 15 (e.g., ungulates, Chapter 15, Section 15.4.3.3) including the Wildlife Management and Monitoring Plan and the Ecological Restoration Plan. Many of the measures to mitigate impacts to wildlife VCs are part of protocols described in Chapter 33 including the Air Quality and Greenhouse Gas Management Plan (Section 33.4.1.1), the Noise and Vibration Management Plan (Section 33.4.1.7), the Vegetation and Ecosystems Management and Monitoring Plan (Section 33.4.1.11), the Spill Prevention, Control, and Countermeasures Plan (Section 33.4.1.10), the Waste Management Plan (Section 33.4.1.12), and the Traffic Control Plan (Section 33.4.2.4) which includes access management. These are identified in combination with the key mitigations for traditional hunting and trapping activities to reduce the impacts on the Kainai's hunting and trapping rights including those related to their ability to know and teach the Kainai way of living during all Project phases. • Harvesting and Gathering: The mitigation measures identified for the change to use of lands and resources for traditional harvesting and gathering purposes are as identified in Chapter 13 (e.g., riparian habitat, Section 13.6.5.2) and Chapter 14 (e.g., whitebark pine, Section 14.5.5.2.1) including the Vegetation and Ecosystems Management and Monitoring Plan and the Ecological Restoration Plan. Many of the measures to mitigate impacts to plants and vegetation VCs are part of protocols described in Chapter 33 including the Wildlife Management and Monitoring Plan (Section 	<p>Project to result in the permanent alienation of the Kainai from harvesting and gathering locations within the Project footprint for which there is no current mitigation identified.</p> <ul style="list-style-type: none"> • It is further noted that that this physical alteration and potential change in the opportunity of the Kainai to practice related traditional activities (e.g., harvesting and gathering) may also have impacts on intangible cultural heritage. • Due to the lack of current information available on their use of the Project footprint for traditional purposes, understanding and characterizing these potential related impacts to their intangible cultural heritage requires further input from the Kainai. • Though baseline data was sufficient to evaluate effects for the related Project VCs, there is no current information available indicating that the Kainai use the Project footprint for harvesting and gathering. As previously identified, a conservative approach has been used in the assessment of impact on rights that assumes that the current and potential use of the lands and resources occurs throughout the ATRI RSA. • It should be noted that there is existing potential for harvesting and gathering for traditional purposes available in the ATRI LSA and RSA outside of the Project footprint. Continued consultation with the Kainai, as well as through the development of potential follow-up and monitoring and adaptive management measures as necessary is expected to improve the confidence rating and the severity of impact on the Kainai's rights and interests. • Physical and Cultural Heritage: <ul style="list-style-type: none"> ○ The potential loss of pre-contact archaeological artifacts (if present) and tree throws related to physical and cultural heritage. ○ The potential loss/disconnection of historic and present-day travel routes and trail if present within or crossing new roads and infrastructure footprint. ○ The potential changes to or loss of places that may be important for ceremonial or sacred areas through changes in landscape/ecosystems within the Project footprint. ○ The potential for change in access to places that may be important for ceremonial or sacred areas, and the potential loss of pre-contact archaeological artifacts (if present) during Project phases. ○ The Project has the potential to impact on the Kainai's rights and interests as a result of the potential change due to a significant historic area located near the Project's roads: Grave Lake, Grave Creek, and Grave Prairie. ○ The potential for changes to ceremonial or sacred areas associated with Grave Creek and West Alexander Creek. ○ There is also the potential discovery of pre-contact archaeological resources (if present) in unconsolidated material or during progressive clearing activities. ○ The potential for the permanent alienation of the Kainai from their cultural heritage due to the intangible value associated with a sense of place within the Project footprint. <p>The degree in severity of impact on the Kainai's rights and interests related to physical and cultural heritage resources and structures, sites, or things of historical, archaeological, paleontological, or architectural significance is rated as moderate to high based on the following:</p>	

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			<p>33.4.1.13), Air Quality and Greenhouse Gas Management Plan (Section 33.4.1.1), the Soil Management Plan (Section 33.4.1.9), Spill Prevention, Control, and Countermeasures Plan (Section 33.4.1.10), and the Waste Management Plan (Section 33.4.1.12). These are identified in combination with the key mitigations for traditional harvesting and gathering activities to reduce the impacts on the Kainai's harvesting and gathering rights including those related to their ability to know and teach the Kainai way of living during all Project phases.</p> <ul style="list-style-type: none"> Physical and Cultural Heritage: The mitigation measures identified for the change to physical and cultural heritage, and structures, sites, or things of historical, archaeological, paleontological, or architectural significance are related to reporting on the implementation of management and monitoring plans associated with the identification of appropriate mitigation for pre-contact archaeological sites based on collaboration with the Kainai. An Archaeology Management Plan (Chapter 33, Section 33.4.1.2) was developed for the Project and describes protocols that will be followed where the Project footprint encroaches upon the recorded boundaries of pre-contact archaeological sites (pre-dating A.D. 1846) that are protected under the Heritage Conservation Act, in addition to best management practices for archaeological potential zones and Chance Finds. Mitigation measures for direct impacts to archaeological resources will include, but not be limited to, the application for a provincial Section 12.4 Alteration Permit, to be held concurrently with a Section 12.2 Heritage Inspection Permit. A Heritage Resources response procedure will be put in place as per the Section 12.4 Alteration Permit, and will be followed in the event that a Heritage Resource is discovered during Project-related activities. Social, Health, and Economic Conditions: The mitigation measures identified for the change to social, health, and economic conditions are as identified in Chapters 17 (Section 17.5.5) and 18 (Section 18.5.4), including the Health 	<ul style="list-style-type: none"> The potential impacts are likely to be small in spatial extent, and with no effects to health. These heritage resources may be of interest to the Kainai based on their potential linkage to the Kainai ancestry though none have been identified based on preliminary consultation with the Kainai. Though baseline data was sufficient to evaluate effects for known heritage resources, the lack of regional information on the Kainai's physical and cultural heritage and structures, sites, or things that are of historical, archaeological, paleontological, or architectural significance increases the degree of severity of adverse impacts. There is potential for the permanent alienation of the Kainai from their cultural heritage for which there is no current mitigation identified. It is further noted that that this physical alteration and potential change in the opportunity of the Kainai to practice related traditional activities (e.g., ceremonies in areas of physical and cultural heritage) may also have impacts on intangible cultural heritage. The understanding and characterizing of these potential related impacts to the Kainai's intangible cultural heritage requires further input from the Kainai. Continued consultation with the Kainai, as well as through the development of potential follow-up and monitoring and adaptive management measures as necessary is expected to improve the confidence rating and the severity of impact on the Kainai's rights and interests. Social, Health, and Economic Conditions: <ul style="list-style-type: none"> The potential Project nuisance effects to residents due to noise and vibration. The potential change in availability/reliance on country food. The loss of potential access to species for traditional purposes due to loss of sections of West Alexander Creek. The potential for the permanent alienation of the Kainai from traditional use locations within the Project footprint. The potential for public safety risks due to physical hazards. The Project has the potential to impact on the Kainai's rights and interests due to the potential change in population and demographics. The potential change in community health and well-being. The potential change due to the influx of new employees to the region that could potentially contribute to social impacts, including safety risks. <p>Based on the Human Health and Ecological Risk Assessment (HHERA; Chapter 22), which encompasses changes in surface water and air quality, and was estimated in consideration of use and rights-based Indigenous traditional use lifestyle scenarios, the overall Project-related risk to human health is considered to be low. Though the risk is identified as low, there is potential for residual effects to wildlife and human health, and as such, to the actual or perceived quality of fish and wildlife resources consumed as country foods. As such there is potential for less reliance on country foods because of this perceived impact to their quality.</p> <p>Based on the background information research and the consultation activities with the Kainai to date, there are no anticipated interactions between the Project and the Kainai housing, transportation, or social services and education, and therefore, no unmitigated</p>	

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			<p>and Safety Management Plan. As noted in Chapter 22, Section 22.5.3, a wide array of design mitigation measures are having been recommended in relation to surface water and air, and considered in the assessment of impact on soil, plant/animal tissue (i.e., food) and sediment quality. As such, mitigation measures applicable to the surface water and air quality VCs are applicable, as well as the following in relation to social and health conditions as described in Chapter 33 including the Air Quality and Greenhouse Gas Management Plan (Section 33.4.1.1), the Noise and Vibration Management Plan (Section 33.4.1.7), the Vegetation and Ecosystems Management and Monitoring Plan (Section 33.4.1.11), the Spill Prevention, Control, and Countermeasures Plan (Section 33.4.1.10), the Waste Management Plan (Section 33.4.1.12), and the Traffic Control Plan (Section 33.4.2.4) which includes access management. These are identified in combination with the key mitigations for the Kainai's traditional activities to reduce the impacts on the Kainai's interests including those related to their ability to know and teach the Kainai way of living during all Project phases.</p>	<p>Project effects on these aspects of health and social, health, and economic conditions are anticipated.</p> <p>There is also potential for potential modest positive change in the availability of community services, the potential for Indigenous Communities to take part in monitoring activities as outlined in the Indigenous Impact Management Plan (Section 27.9), and the potential economic benefit for Indigenous Community members related to employment and economic investment during the Project phases. The Project is anticipated to result in positive economic outcomes for employment, income, and local and regional economies.</p> <p>The degree in severity of impact on the Kainai's social, health, and economic conditions is rated as low based on the following:</p> <ul style="list-style-type: none"> • The potential impacts are likely to be small in spatial extent, reversible long-term, and with few effects to health and/or country foods. • It should be noted that through this assessment it has been determined that there is potential for the Project to result in the permanent alienation of the Kainai from locations within the Project footprint. It is further noted that that this physical alteration and potential change in the opportunity of the Kainai to practice related traditional activities (e.g., consumption of country food) may also have impacts on intangible cultural heritage. The understanding and characterizing of these potential related impacts to Kainai's intangible cultural heritage requires further input from the Kainai. • Though baseline data was sufficient to evaluate effects for socio-community, economic, and human health VCs, areas currently or potentially used by the Kainai for traditional purposes have not been identified within the Project footprint by the Kainai and the impact on rights assessment is based on the publicly-available information. • As such, there is no information indicating that the Kainai currently uses the Project footprint for social, health, and economic conditions. • Continued consultation with the Kainai, as well as through the development of potential follow-up and monitoring and adaptive management measures as necessary is expected to improve the confidence rating and the severity of impact on the Kainai's rights and interests. 	
Cumulative Effects Assessment	<p>Issue provided in the Draft Effects Assessment Response October 22, 2021</p> <p>Kainai is concerned about the approach taken by NWP in relation to cumulative effects and, in particular, dismayed by the finding that the Project will have "no significant adverse</p>	<p>Updates added to Chapter 27 to reflect consultation and on-going engagement.</p> <p>Section 27.5 details our preliminary understanding of the Kainai's rights and interests and how feedback received from the Kainai was incorporated into the effects assessment process.</p> <p>Where the Kainai highlighted the further consideration of the cumulative effects of the Project in</p>	<p>In addition to the mitigations outlined in the specific VC chapters, the following mitigation measures are proposed to reduce the potential cumulative impacts on the Kainai's rights and interests:</p> <ul style="list-style-type: none"> • Best management practices and procedures related to each VC of interest are based on Kainai perspectives shared with respect to the principles of reclamation and restoration including the design of mitigation measures for cumulative effects as outlined in the various specific VC chapters in the Application/EIS. • Restoration and progressive reclamation at various phases of the Project related to cumulative effects in an effort to address the 	<p>Within the ATRI RSA, lands have experienced and are experiencing past disturbances as a result of mining, forestry, agricultural/commercial/residential development, and natural disturbances (e.g., avalanches, forest fires). Based on the results of the relevant VC potential residual cumulative effects assessments and in consideration of potential regional mitigation measures as well as the requirements of Section 5(1)(c) of CEA Act, 2012, potential residual cumulative effects are anticipated to occur as they relate to:</p> <ul style="list-style-type: none"> • The use of lands and resources for traditional purposes (i.e., fishing, hunting and trapping, harvesting and gathering); • Physical and cultural heritage, and structures, sites, or things of historical, archaeological, paleontological, or architectural significance; and • Social, health, and economic conditions. 	<p>Issue has been considered in the effects assessment and is documented in Chapter 27 of the Application/EIS.</p> <p>NWP provided a detailed description of the cumulative effects assessment methodology and overview of the projects and activities included in the assessment process that relate to past, present, and the reasonable future developments.</p>

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	<p>cumulative effects” on valued components that are related to Aboriginal and Treaty rights and interests.</p> <p>Kainai would suggest that NWP has not yet gathered the appropriate information to be advancing to the environmental assessment phase for this Project.</p>	<p>relation to the past and present projects and activities related to coal mining, further clarity on what projects and activities were included in the cumulative effects assessment was provided to the Kainai as a follow up to the feedback received. Section 27.7.4 includes updated maps and further details on those projects and activities included in the assessment process.</p> <p>Where information was available on the Kainai’s perspectives, they have been included in Sections 27.6 to 27.10.</p> <p>Key issues that remain outstanding and are included in the opportunities for future engagement are the incorporation of Kainai’s traditional use information collection within the Project footprint and the ATRI LSA that is currently ongoing and should be incorporated into the assessment processes, and the concerns regarding the overall potential cumulative effects within the Elk Valley due to on-going activities.</p>	<p>usually slow reclamation progress in the Elk Valley.</p> <ul style="list-style-type: none"> • As part of the cumulative effects mitigation and the overall impact management measures, NWP will encourage the participation of the Kainai on the applicable Project Advisory, Environmental Stewardship and Reclamation Planning committees. • NWP is also committed to supporting the establishment of more new conservation lands than the loss of existing conservation lands. New lands may be privately held by NWP, an Indigenous Nation, or a recognized conservation organization. • Confirming and implementing the Indigenous Impact Management Plan that outlines mitigation measures to avoid, minimize, reduce, and/or offset potential direct and indirect impacts of the Project on the Kainai’s rights and related interests and utilizes adaptive management approaches for follow-up strategies and monitoring programs. • Consideration of collaborative strategies for addressing the cumulative effects where applicable, with Kainai, the identified Indigenous Communities, other proponents, and regulatory agencies. • Participation in the Elk Valley Cumulative Effects Management Framework as co-led by the KNC and other relevant regional cumulative effects initiatives, where appropriate. • Supporting possible opportunities to augment VC-specific monitoring programs to include responses to concerns raised by the Kainai utilizing adaptive management approaches for follow-up strategies. • Adopting management practices and measures to meet regional planning objectives, where practicable, over the course of the Project. • Supporting the recognition of Indigenous stewardship and governance in the Elk Valley and respecting Kainai perspectives on their use of lands and resources for traditional purposes. • Continued consultation and engagement with the Kainai over the course of the Project to identify and understand current use of lands 	<p>Though potential residual cumulative effects to VC or VC groups that may be of interest to the Kainai are not assessed as significant, a conservative approach to the assessment of residual cumulative effects on the Kainai indicates residual cumulative effects may occur. Residual cumulative effects assessments for potential cumulative effects are presented in Sections 27.7.4.4.1 to 27.7.4.4.5.</p> <p>The Project has the potential to impact the Kainai’s rights and interests related to cumulative effects that may result in cumulative impacts addressed as follows:</p> <ul style="list-style-type: none"> • Fishing: <ul style="list-style-type: none"> ○ While the degree in severity of impact on the Kainai’s rights for the use of lands and resources for fishing and fish opportunities is rated as low to moderate, the cumulative impacts are rated as moderate. ○ The Project in combination with other reasonably foreseeable future projects and activities is not anticipated to result in measurable cumulative residual Project effects that will reduce the ability and opportunity of the Kainai to practice their rights and interests related to fishing within the ATRI RSA over the already existing reduced ability that has been previously identified (Section 27.7.4.2). ○ The cumulative impacts have been assessed as moderate due to the on-going impacts of past and present projects and activities in combination with other reasonably foreseeable future projects and activities, on watercourses in the Elk Valley, the limited information currently available on the current and potential use of lands and resources within the ATRI RSA, and the uncertainty regarding the implications of regional climatic changes that may impact fish habitat availability. ○ Kainai perspectives on cumulative effects in the ATRI RSA note that “waterways and the fish, and other species that rely on them are on the brink of devastation due to coal mining”. ○ The cumulative impact is determined as moderate due to the lack of information available from the Kainai regarding their opportunity to conduct traditional fishing within the Project footprint at this time. ○ It is expected that their ability to know and teach the Kainai way of living can continue outside of the Project footprint during all Project phases. • Hunting and Trapping: <ul style="list-style-type: none"> ○ While the degree in severity of impact on the Kainai’s rights and interests for the use of lands and resources for hunting and trapping is rated as low to moderate, the cumulative impacts are rated as moderate. ○ The Project in combination with other reasonably foreseeable future projects and activities is not anticipated to reduce the ability and opportunity of the Kainai to practice rights and related interests related to hunting and trapping within the ATRI RSA. ○ The wildlife and wildlife habitat conditions within the regional study areas of relevant wildlife species of interests including their ecology, habitat availability, and distribution, and occurrence and abundance, are well understood at the scale of the VC regional study areas (e.g., Terrestrial RSA). ○ The moderate rating also reflects that the Kainai have not provided any specific information to date regarding their use of the Project footprint for hunting and 	<p>NWP is committed to ongoing communication on this issue through future consultation and engagement with the Kainai.</p>

Table 27-A.1: Summary of the Results of the Kainai Consultation Related to their Aboriginal Rights and Interests and Other Matters of Concern

Kainai Rights and Related Interest/VC	Kainai Perspectives on Rights and Interests/VC	Proponent Response	Summary of Proposed Measures to Avoid, Mitigate, or Otherwise Manage Effects	Summary of Assessment of Potential Impacts on Rights and Interests	Status of Issue / Path Forward
			<p>and resources for traditional purposes within the ATRI LSA and ATRI RSA.</p> <p>Opportunity for ceremonies on the land prior to construction of project infrastructure as well as opportunities for harvesting and gathering within the Project footprint prior to construction for Indigenous community members.</p>	<p>trapping for traditional purposes or whether they have an interest in using the area in the future.</p> <ul style="list-style-type: none"> ○ It is expected that their ability to know and teach the Kainai way of living can continue outside of the Project footprint during all Project phases. ○ Uncertainty also exists regarding the implications of regional climatic changes that may impact wildlife habitat availability. ● Harvesting and Gathering: <ul style="list-style-type: none"> ○ The degree in severity of impact on the Kainai’s rights and interests for the use of lands and resources for harvesting and gathering is rated as moderate to reflect the cumulative impacts. ○ The Project, in combination with other reasonably foreseeable future projects and activities, is not anticipated to result in measurable residual Project effects to reduce the ability and opportunity for the Kainai to practice their rights and interests related to harvesting and gathering within the ATRI RSA. ○ The opportunity to harvest and gather within the ATRI RSA is dependent on the location of ecosystems and plant species of interest as well as the access to these areas. ○ Due to on-going impacts of past and present projects and activities in combination with other reasonably foreseeable future projects and activities, on the Elk Valley, the limited information currently available on the use of lands and resources within the ATRI RSA, the uncertainty regarding the implications of regional climatic changes that may impact terrestrial ecosystems and vegetation communities, the changes in the accessibility to harvest and gather in the ATRI RSA that may potentially impact the ability to undertake cultural and traditional practices for community members, and the importance of available lands for traditional practices, the cumulative impacts have been assessed as moderate. ○ The cumulative impact is also determined as moderate due to the lack of information available from the Kainai regarding their opportunity to conduct traditional harvesting and gathering activities within the Project footprint at this time. It is expected that their ability to know and teach the Kainai way of living can continue outside of the Project footprint during all Project phases. ● Physical and Cultural Heritage: <ul style="list-style-type: none"> ○ While the degree in severity of impact on the Kainai’s rights and interests related to physical and cultural heritage resources and structures, sites, or things of historical, archaeological, paleontological, or architectural significance is rated as moderate to high, the cumulative impacts are rated as moderate. ○ There is potential for physical and cultural heritage resources and structures, sites, or things of historical, archaeological, paleontological, or architectural significance to be located with the ATRI RSA and as such, a potential for development of reasonably foreseeable future projects and activities to overlap with these resources and sites. ○ At this time, the locations of these resources and sites require further consultation with the Indigenous Communities within the ATRI RSA, other than those documented as part of the Project Archaeological Baseline Assessment within the Project footprint and the Archaeological LSA (Chapter 16). ○ It is anticipated that mitigation measures to identify heritage resources will be implemented as part of current and reasonably foreseeable future projects and activities prior to development. 	

Table 27-A.1: Summary of the Results of the Kainai Consultation Related to their Aboriginal Rights and Interests and Other Matters of Concern

Kainai Rights and Related Interest/VC	Kainai Perspectives on Rights and Interests/VC	Proponent Response	Summary of Proposed Measures to Avoid, Mitigate, or Otherwise Manage Effects	Summary of Assessment of Potential Impacts on Rights and Interests	Status of Issue / Path Forward
				<ul style="list-style-type: none"> ○ Within the ATRI RSA, the location of physical and cultural heritage and of structures, sites, or things that are of historical, archaeological, paleontological, or architectural significance are currently unknown outside of the Project footprint and Archaeological LSA. ○ Should reasonable foreseeable future projects and activities be carried out within the ATRI RSA and mitigation measures be implemented to protect and avoid physical and cultural heritage and any structure, site, or thing that is of historical, archaeological, paleontological, or architectural significance (i.e., no permanent loss), the residual cumulative effects to physical and cultural heritage and to any structure, site, or thing that is of historical, archaeological, paleontological, or architectural significance arising from the Project in combination with other past, present, and reasonably foreseeable future projects and activities during all phases are not anticipated to be significant. ○ The cumulative impact is determined as moderate due to the lack of information available from the Kainai regarding their opportunity to conduct traditional activities within the Project footprint at this time. It is expected that their ability to know and teach the Kainai way of living can continue outside of the Project footprint during all Project phases. • Social, Health, and Economic Conditions: <ul style="list-style-type: none"> ○ The degree in severity of impact on the Kainai's social, health, and economic conditions is rated as low to reflect the cumulative impacts. ○ The assessment of residual cumulative effects of the Project in combination with those of past, present, and reasonably foreseeable future projects and activities on wildlife and human health concluded no significant adverse cumulative effects on terrestrial, aquatic, and human health. ○ Additionally, no adverse residual effects on social, health, and economic conditions were predicted, therefore no cumulative effect to social, health, and economic conditions are expected to occur. ○ The residual cumulative effects on social, health, and economic conditions arising from the Project in combination with other past, present, and reasonably foreseeable future projects and activities during all phases are also considered not significant. ○ The cumulative impact is determined as low due to the lack of information available from the Kainai regarding their opportunity to conduct traditional activities related to country food consumption within the Project footprint at this time. ○ It is expected that their ability to know and teach the Kainai way of living can continue outside of the Project footprint during all Project phases. <p>Continued consultation with the Kainai, as well as through the development of potential follow-up and monitoring and adaptive management measures as necessary is expected to improve the confidence rating and the severity of impact on the Kainai's rights and interests.</p>	

Table 27-A.2: Comments Received from the Kainai (Blood Tribe) on the Draft Effects Assessment and Recommendations Addressed

Date Received	Comment No.	Original EIS Section No.	EIS Section Title	Indigenous Community Comment on EIS Section	Changes to EIS Section as Recommended by Indigenous Community	Comments/Updates Related to Comments in Updated EIS - Chapter 27	NWP's Response to Comment / Disposition to Issue
	1	23.7.1	Introduction	We note the accepted name for our client is Blood Tribe/Kainai, Blood Tribe, or Kainai – the word Kainai incorporates the concept of nationhood. We ask that you make this adjustment in your materials.	The word Kainai incorporates the concept of nationhood. We ask that you make this adjustment in your materials.	Updated to Kainai wherever applicable.	N/A
	2	23.7.4.7	Historic and Current Use of Lands and Resources for Traditional Purposes	NWP has provided funding for Kainai to gather the necessary evidence to highlight Kainai's use in and around the Project area – effectively to prove their asserted rights and uses. We are in the early stages of gathering this information and it would be premature to proceed to the next phase of the regulatory process without this information. It would be premature to proceed to the next phase of the regulatory process without this information.	We recommend NWP wait until this information can be incorporated into the draft Effects Assessment before proceeding. In the intervening time, we expect that Kainai's interests and asserted uses be incorporated into the effects assessment.	Update added to Section 27.5.2 Project Development and Pre-Application Engagement: On February 1, 2021, NWP provided a draft version of the initial sections of this Application/EIS section for review and comment by Kainai. Feedback on the draft section was provided by the Kainai on April 1, 2021. The remaining section, complete with the effects assessments, was provided to the Kainai on August 30, 2021. Feedback on the remaining section was provided by the Kainai on October 22, 2021, with key concerns related to the timing and inclusion of the traditional land use (TLU) study to highlight Kainai's use within the Project footprint and the ATRI LSA in the Application/EIS identified. NWP responded to the Kainai feedback in writing on November 29, 2021. A follow-up meeting was undertaken on January 21, 2022 with Kainai to discuss the feedback provided, its incorporation into the draft Application/EIS, and the next steps in the assessment processes.	NWP notes that engagement discussions and consultation with the Kainai are ongoing and information provided will be reviewed and considered.
Oct-22-2021	3	23.7.4.7.2	Hunting and Trapping	We also note that, on multiple occasions, Kainai has told NWP that their members are active in the area. This is reflected in the "Kainai Interests" section, where NWP states that "Kainai people continue to hunt for elk mule deer, bighorn sheep, moose and occasionally bear in the foothills and front slopes of the Rocky Mountains". However, this use is not carried through to the effects assessment. As identified through consultation with Kainai, Kainai has use in the area. This is use is likely to be impacted by this Project.	NWP should reflect this in the draft Effects Assessment.	Sections 27.7.2 Assessment Methods, 27.7.3.2.2 Change to Use of Lands and Resources for Traditional Purposes: Hunting and Trapping, 27.7.4.1 Cumulative Effects Assessment Methods, 27.7.4.3 Identification of Potential Cumulative Effects of the Changes to the Environment on the Kainai, and 27.7.4.4.2 Change to Use of Lands and Resources for Traditional Purposes: Hunting and Trapping cover the identified species and where receptor and/or intermediate VC were selected to serve as surrogates for the effects assessment on Kainai's rights and interests.	NWP to provide EA chapters for review to Kainai during the review phase.
	4	23.7.6	Assessment of Potential Project Effects on Kainai First Nation	Kainai's major concern is that the draft Effects Assessment is not sufficiently populated with information from Kainai. Kainai only entered into a funding agreement to gather this information today. It seems premature to proceed to a draft Effects Assessment and into an environmental assessment without first gathering and understanding this information. We understand that this is a preliminary document and note that both parties are in the early stages of gathering all of the necessary information to proceed in an informed way. However, this draft Effects Assessment requires considerably more information from Kainai in order to proceed. This information is being gathered under the funding agreement reached between the two parties. We recommend NWP wait until this information can be incorporated into the draft Effects Assessment before proceeding. In the intervening time, we expect that Kainai's interests and asserted uses be incorporated into the effects assessment.	NWP must gather additional information in order to proceed to a final environmental assessment document.	Update added to Section 27.5.2 Project Development and Pre-Application Engagement: On February 1, 2021, NWP provided a draft version of the initial sections of this Application/EIS section for review and comment by Kainai. Feedback on the draft section was provided by the Kainai on April 1, 2021. The remaining section, complete with the effects assessments, was provided to the Kainai on August 30, 2021. Feedback on the remaining section was provided by the Kainai on October 22, 2021, with key concerns related to the timing and inclusion of the traditional land use (TLU) study to highlight Kainai's use within the Project footprint and the ATRI LSA in the Application/EIS identified. NWP responded to the Kainai feedback in writing on November 29, 2021. A follow-up meeting was undertaken on January 21, 2022 with Kainai to discuss the feedback provided, its incorporation into the draft Application/EIS, and the next steps in the assessment processes.	NWP notes that engagement discussions and consultation with the Kainai are ongoing and information provided will be reviewed and considered.

Table 27-A.2: Comments Received from the Kainai (Blood Tribe) on the Draft Effects Assessment and Recommendations Addressed

Date Received	Comment No.	Original EIS Section No.	EIS Section Title	Indigenous Community Comment on EIS Section	Changes to EIS Section as Recommended by Indigenous Community	Comments/Updates Related to Comments in Updated EIS - Chapter 27	NWP's Response to Comment / Disposition to Issue
	5	23.7.6.3.2	Potential Unmitigated Effects on the Historic and Current Use of Lands and Resources for Traditional Purposes	As identified in the previous section, there are many valued components connected to Aboriginal and Treaty rights that are likely to have residual adverse effects from the proposed development of the Project. However, the draft Effects Assessment lists nearly all of these as "not significant". In section 23.7.6.3.2 titled "Potential Unmitigated Effects on the Historic and Current Use of Lands and Resources for Traditional Purposes", NWP lays out a series of potential effects on Kainai's right to fish, hunt and trap, and harvest and gather. In addition, NWP identifies effects on ceremonial/sacred areas, access and travel routes, and physical and cultural heritage. Kainai would like to identify how NWP determined these potential effects on Kainai.		Section 27.6.6 Kainai's Rights and Interests: Historic and Current Use of Land and Resources for Traditional Purposes describes the baseline conditions for the Kainai's exercise of their Aboriginal and Treaty rights and interests as identified by IAAC (IAAC, 2020a) with regard to the Project. This section includes information regarding the Kainai's Aboriginal and Treaty rights and interests based on feedback from the Kainai, publicly available information, and consultation and engagement activities summarized in Section 27.5 relating to the historic and current use of lands and resources for traditional purposes by the Kainai such as fishing, hunting and trapping, harvesting and gathering, ceremonial and sacred sites, access and travel routes, as well as physical and cultural heritage. Sections 27.7.3.1 Project Components and Interactions, 27.7.3.2 Characterization of Potential Residual Effects of the Changes to the Environment on the Kainai, and 27.10.2.1 Characterization of Severity of Adverse Impacts on the Kainai's Rights and Interests outline how the potential effects on Kainai were determined. Due to the preliminary nature of the understanding of the Kainai's rights and interests, it is expected that the Crown consultation process will confirm the contents of the assessment on impact on Kainai's rights and interests described in these sections.	NWP to provide EA chapters for review to Kainai during the review phase.
	6	23.7.6.5.2	Characterization of Residual Effects	Specifically, with regard to hunting and trapping, the draft Effects Assessment indicates that "to the Proponent's knowledge, it is anticipated that currently Kainai First Nation has a low level of use in the Terrestrial LSA". We look forward to working with NWP to gather the information necessary to highlight Kainai's use in the area – both historical and current – and provide NWP with a more comprehensive understanding of Kainai members' activity in and around the Project area.		Update added to Section 27.7.3.2 Characterization of Potential Residual Effects of the Changes to the Environment on the Kainai: At the time of the submission of this chapter, the Kainai have yet to submit a Project-specific TK/TLU study within the ATRI LSA for the Project. Through this effects assessment and continued consultation with the Kainai, Project-related residual effects to the Kainai may continue to be identified, and where applicable, mitigated or accommodated. Considering the lack of Project specific information being provided by the Kainai, the confidence of the residual effects to the current use of lands and resources by the Kainai is considered to be low to moderate where applicable.	NWP notes that engagement discussions and consultation with the Kainai are ongoing and information provided will be reviewed and considered.
	7			We ask that NWP provide Kainai with the draft sections of their assessment that pertain to Bighorn sheep. This will permit Kainai to better understand the impact of the Project on Bighorn sheep. Bighorn sheep are a species of special importance to the Blackfoot, in general. There is significant public information about the connection between Blackfoot and Bighorn sheep. Further, Kainai highlights the proximity of Bob Creek Wildland Provincial Park to the east, Castle Wildland Provincial Park to the south, and Beehive Natural area to the north. These areas represent important and fragile protected environments for large mammals, including Bighorn sheep. Kainai is concerned about how the Project will interfere with migrations from and to these areas.		Chapter 15: Wildlife and Wildlife Habitat Assessment, Section 15.4 Ungulates Community and Section 27.7.3.2.2 Change to Use of Lands and Resources for Traditional Purposes: Hunting and Trapping - Kainai's Species of Interest: Bighorn Sheep includes bighorn sheep as a VC.	NWP to provide EA chapters for review to Kainai during the review phase.

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				Of particular note is Beehive Natural Area, which hosts lambing sites for Bighorn sheep (in addition to being the wintering range for one of Alberta's largest elk herds). It is important for Kainai to understand how additional industrial activity in British Columbia will impact the activities of these large mammals.			
	8			Kainai would also like 100% certainty that none of the Project activities have the potential to impact or contaminate the source water for Kainai's drinking water – the Oldman River watershed.		<p>As noted in Chapter 11: Surface Water Quality Effects, Section 11.5.2.2.6:</p> <p>A series of two sediment ponds are proposed for managing the combined runoff from the mine footprint and non-contact water from the upper western slopes of West Alexander Creek as the mine development advances. These ponds will be placed downstream of the Mine Rock Storage Facility and will be developed through the mine life to accommodate the advancing mine rock placement and provide a means to collect and temporarily retain mine affected water to meet Technical Guidance 7 Environmental Management Act requirements.</p> <p>And in Chapter 11, Section 11.5.2.3 - Transboundary Effects: Transboundary effects into Alberta will not occur as a result of the Project as all watersheds within and surrounding the Project footprint are located on the western side of the continental divide.</p>	
	9	23.7.7	Cumulative Effects Assessment	<p>Kainai is concerned about the approach taken by NWP in relation to cumulative effects and, in particular, dismayed by the finding that the Project will have "no significant adverse cumulative effects" on valued components that are related to Aboriginal and Treaty rights and interests. The cumulative effects assessment is far too narrow and does not incorporate the current coal mines in the area. Kainai would like a more detailed explanation as to how this determination was made.</p> <p>The draft Effect Assessment contemplates considerable adverse effects that go to the core of Kainai's Aboriginal rights. However, the draft Effects Assessment found that "No significant adverse cumulative effects were anticipated for VCs or VC groups that are related to Aboriginal and Treaty rights and interests". The VCs include: fish and fish habitat, wildlife and wildlife habitat, terrestrial ecosystems, vegetation, land use and access, heritage resources, and human wildlife health. This appears largely due to the fact that NWP has not gathered any information about Kainai's use in the area.</p> <p>To assist in this process, and to better understand how the determination that "[n]o significant adverse cumulative effects were anticipated for VCs or VC groups that are related to Aboriginal and Treaty rights and interests" was made, Kainai requests a review of the draft cumulative effects chapter of the environmental assessment.</p>	<p>The cumulative effects assessment is too narrow.</p> <p>Additionally, we recommend that NWP approach the issue of cumulative effects of the Project from a more holistic perspective.</p>	<p>Updated Section 27.7.4.2 Identifying Past, Present, and Reasonably Foreseeable Projects and/or Activities to outline "past and present projects and activities" inclusion into baseline conditions determination including providing a detailed rationale as to the focus of the cumulative effects assessment on reasonably foreseeable future projects and activities.</p>	<p>NWP to provide EA chapters for review to Kainai during the review phase.</p> <p>NWP notes that engagement discussions and consultation with the Kainai are ongoing and information provided will be reviewed and considered.</p> <p>NWP correspondence to Kainai (dated November 29, 2021) regarding "past and present projects and activities" inclusion into baseline conditions determination including rationale as to the focus of the cumulative effects assessment on reasonably foreseeable future projects and activities.</p>

Table 27-A.2: Comments Received from the Kainai (Blood Tribe) on the Draft Effects Assessment and Recommendations Addressed

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	10			<p>Kainai notes that NWP qualifies this chapter, stating: "... the assessment of effects on Aboriginal and Treaty rights and interest presented in this section is purposely general and preliminary". Continuing, that "[n]o traditional ecological knowledge or traditional land and resource use studies had [sic] been completed specifically for the Project, nor for the region as a whole". This chapter is based "on the generally available knowledge of Indigenous use of land and resources and culture, and professional judgement. ... supplemented by literature sources and secondary information". We would suggest that NWP has not yet gathered the appropriate information to be advancing to the environmental assessment phase for this Project.</p> <p>NWP has not yet worked collaboratively to gather the necessary information from Kainai to produce a comprehensive draft Effects Assessment that is informed by traditional ecological knowledge and traditional land use and resource use studies. We appreciate that NWP has now entered into a funding agreement with Kainai but there has been significant delay in getting to this point.</p> <p>Although an agreement has now been reached, it took some time. In this time, without the required funding, the necessary information was not gathered. As we have now reached an agreement, we can proceed to gathering the necessary information on to inform NWP on Kainai's rights and use in the area. Kainai requests that NWP not proceed to a final effects assessment until they can incorporate the information gathered from the reports contemplated in the Letter Agreement between the two (2) parties. Kainai will inform NWP when interim reports can be made available.</p> <p>If we proceed prematurely, then NWP is proceeding without a thorough understanding of the ecological conditions necessary to preserve Kainai's Aboriginal rights in BC.</p>	It is necessary that NWP work with Kainai to gather the necessary information to complete this document.	<p>Section 27.4.1 Information Sources notes that:</p> <p>The information described herein was obtained through publicly available information sources, listed in Section 27.5 and 27.6 and through consultation and engagement with the Kainai. The information is intended to provide an overview of traditional land and resource use within the Project footprint, the ATRI LSA, and the ATRI RSA. This information is not intended to supersede or prejudice the traditional knowledge or specific information that may be shared as part of ongoing engagement with the Kainai. It provides information from generally available knowledge and secondary sources of information that is intended to complement additional information that might be available from the Kainai in this regard, should they wish to share it. If further information is received through continued engagement with the Kainai, the information will be included where applicable to be considered as part of the overall evaluation of the potential impacts on Kainai's rights and Interests as part of the environmental assessment/impact assessment (EA/IA) processes.</p> <p>Section 27.4.1.1 Limitations of Information Sources notes that:</p> <p>At the time of the Application/EIS submission, the Kainai did not provide a Project-specific Traditional Land-Use Study (TK/TLU) to NWP. Throughout this Application/EIS, where Indigenous Knowledge was provided by the Kainai it has been incorporated where applicable and noted as such. The limitations of the information sources considered include those publicly available (i.e., information provided by Kainai on other relevant EIS/project applications, e.g., including Baldy Ridge Extension Project, the Castle Project, Grassy Mountain Coal Project, and the Line Creek Operations Project) and those activities and correspondence that detail Project-specific information validated by the Kainai to be shared publicly. Limitations of information are also noted where no information is provided by the Kainai directly related to the baseline conditions established in Section 27.6 and NWP's understanding of the Kainai's rights and interests are limited to those confirmed by the Kainai in Section 27.5.4.</p> <p>Section 27.7.3.2 Characterization of Potential Residual Effects of the Changes to the Environment on the Kainai:</p> <p>At the time of the submission of this chapter, the Kainai have yet to submit a Project-specific TK/TLU study within the ATRI LSA for the Project. Through this effects assessment and continued consultation with the Kainai, Project-related residual effects to the Kainai may continue to be identified, and where applicable, mitigated or accommodated. Considering the lack of Project specific information being provided by the Kainai, the confidence of the residual effects to</p>	NWP notes that engagement discussions and consultation with the Kainai are ongoing and information provided will be reviewed and considered.

Table 27-A.2: Comments Received from the Kainai (Blood Tribe) on the Draft Effects Assessment and Recommendations Addressed

Date Received	Comment No.	Original EIS Section No.	EIS Section Title	Indigenous Community Comment on EIS Section	Changes to EIS Section as Recommended by Indigenous Community	Comments/Updates Related to Comments in Updated EIS - Chapter 27	NWP's Response to Comment / Disposition to Issue
						the current use of lands and resources by the Kainai is considered to be low to moderate where applicable.	
	11			<p>Further, Kainai requests greater detail on the following:</p> <ul style="list-style-type: none"> - Fish and Fish Habitat: NWP states that “[c]hanges in water quality as a result of the Project will be mitigated through Project design and Project-specific mitigation measures and are not anticipated to extend beyond the Fish and Fish Habitat LSA.” It is well known that the impacts of selenium from coal mining extend far beyond the project area. It is unclear to Kainai how these impacts will be mitigated and/or prevented from flowing downstream and affecting wildlife, fish and fish habitat necessary for the practice of Aboriginal and Treaty rights. - Wildlife and Wildlife Habitat: NWP states that “[t]he Project, in combination with other reasonably foreseeable future projects and activities, would not limit the ability of ungulates, carnivores, and birds to persist and maintain self-sustaining populations in the VC-specific regional study areas (i.e., Terrestrial RSA, Grizzly Bear RSA)”. Kainai requests additional information on how this determination was made. The Project is in an area with significant historical coal activity, multiple proposed mines, and the planned extension and growth of further coal mines. It seems far-fetched that additional coal mining in this area would not contribute to the shrinking of suitable habitat for large mammals and other wildlife. - Landscapes and Ecosystems/Vegetation: Kainai requests that NWP consider the effects of selenium and other pollution on riparian habitat and other sensitive areas. Additionally, Kainai requests further information on how coal dust will impact these sensitive areas and the plants and medicines located within them. - Heritage Resources: NWP states that “[t]here is potential for physical and cultural heritage resources and structures, sites, or items of historical, archaeological, paleontological, or architectural significance to be located with the ATRI RSA and overlap with the other future projects and activities; however, the locations of these resources and sites are unknown at this time at a regional scale. It is anticipated that planned mitigation for current and future projects and activities includes identification of heritage resources prior to the development of projects and activities, as well as the commitment to implement mitigation in consultation with Indigenous Communities.” Despite this lack of information on the location of resources, NWP determines that the residual cumulative effects would be “not significant”. It is premature to assume, without further study, that mitigation measures that have not been reviewed by Kainai will be sufficient to mitigate the effects of the Project. 		<p>As noted in Section 27.5.2 Project Development and Pre-Application Engagement:</p> <p>It is important for Kainai to understand how additional industrial activity in British Columbia will impact the activities of these large mammals. The Kainai also expressed concern regarding potential for impact to the source water for Kainai’s drinking water – the Oldman River watershed and selenium and other contaminant levels in surface water and riparian habitats. Where the Kainai highlighted the further consideration of the cumulative effects of the Project in relation to the past and present projects and activities related to coal mining, further clarity on what projects and activities were included in the cumulative effects assessment was provided to the Kainai as a follow up to the feedback received. The Kainai also highlighted further consideration of cumulative effects of the Project related to past and present projects and activities. The Kainai’s views expressed on the effectiveness of the mitigation or accommodation measures where applicable are further outlined in Appendix 27-A, Table 27.A-1 and Table 27.A-2.</p> <p>It is noted that currently no changes were made to Project design and implementation directly as a result of on-going consultation with the Kainai. The other matters of concern raised by the Kainai not captured in the feedback provided in Appendix 27-A, Table 27.A-2 are addressed in Appendix 27-A, Table 27.A-1 where noted and included in Sections 27.6, 27.7, 27.8, 27.9 and 27.10.</p> <p>Key issues that remain outstanding and are included in the opportunities for future engagement are the incorporation of Kainai’s traditional use information collection within the Project footprint and the ATRI LSA that is currently ongoing and should be incorporated into the assessment processes, and the concerns regarding the overall potential cumulative effects within the Elk Valley due to on-going activities. With respect to discrepancies in views shared previously and updates since engagement began with the Kainai, NWP continues to work with the Kainai to address key issues that have been raised, and regards consultation as an iterative process that adapts in order to identify applicable mitigative measures.</p> <p>Sections 27.7.3.2 Characterization of Potential Residual Effects of the Changes to the Environment on the Kainai, 27.7.3.2.7 Change to Social and Health Conditions, and 27.10.2.1 Characterization of Severity of Adverse Impacts on the Kainai’s Rights and Interests include information on the potential residual effects of selenium on wildlife and human health.</p> <p>Section 27.7.3.2 also notes: At the time of the submission of this chapter, the Kainai have yet to submit a Project-specific TK/TLU study within the ATRI LSA for the</p>	NWP to provide EA chapters for review to Kainai during the review phase.

Table 27-A.2: Comments Received from the Kainai (Blood Tribe) on the Draft Effects Assessment and Recommendations Addressed

Date Received	Comment No.	Original EIS Section No.	EIS Section Title	Indigenous Community Comment on EIS Section	Changes to EIS Section as Recommended by Indigenous Community	Comments/Updates Related to Comments in Updated EIS - Chapter 27	NWP's Response to Comment / Disposition to Issue
				<p>- Human and Ecological Health: Kainai wishes to raise concerns about the impacts of selenium pollution on the large mammals that rely on contaminated drinking water. And in turn, the impacts on the human population that consume the meat from these animals. This is an area for further study and has been highlighted to Kainai by a recent news story about selenium contamination in bighorn sheep.</p>		<p>Project. Through this effects assessment and continued consultation with the Kainai, Project-related residual effects to the Kainai may continue to be identified, and where applicable, mitigated or accommodated. Considering the lack of Project specific information being provided by the Kainai, the confidence of the residual effects to the current use of lands and resources by the Kainai is considered to be low to moderate where applicable.</p>	
	12			<p>In addition, we ask that NWP explain the rationale for excluding "past and present projects and activities" from the cumulative effects assessment for Kainai. We understand that the project baseline has been developed elsewhere in the document, but Kainai has not had any insight into how that was determined, and in an environment such as this – where existing coal mining (and other development) is producing a significant amount of disruption to the lands and a severe amount of pollution – we think it is necessary to consider those effects as part of the continuing impact on the land. Current coal mines and other industrial activity is not historical but present and ongoing.</p> <p>Kainai has indicated a primary concern about selenium levels in surface water, and how this may impact human health, wildlife, fish and fish habitat, and the plants and medicines that rely on this water. To exclude the existing coal mines in the area, from any consideration of cumulative effects, creates a false baseline. The area has been polluted and damaged by coal development. The current state is not an ideal state. Any consideration of cumulative effects must address the reality that these waterways and the fish, and other species that rely on them are on the brink of devastation due to coal mining. The cumulative effects assessment should reflect this and the map on page 58 should include all current major industrial development in the area (i.e. the Teck mines).</p>	<p>Before proceeding to a final version, Kainai would like to review the draft cumulative effects section of the environmental assessment document. This would greatly assist in understanding NWP's determination that there will be no cumulative effects on Aboriginal rights from this Project.</p> <p>The cumulative effects assessment should reflect this and the map on page 58 should include all current major industrial development in the area (i.e. the Teck mines).</p>	<p>Updated Section 27.7.4.2 Identifying Past, Present, and Reasonably Foreseeable Projects and/or Activities to outline "past and present projects and activities" inclusion into baseline conditions determination including providing a detailed rationale as to the focus of the cumulative effects assessment on reasonably foreseeable future projects and activities.</p> <p>Figures 27.7-4 and 27.7.5 have been updated to include all projects and activities considered in the assessment.</p>	<p>NWP to provide EA chapters for review to Kainai during the review phase.</p> <p>NWP correspondence to Kainai (dated November 29, 2021) regarding "past and present projects and activities" inclusion into baseline conditions determination including rationale as to the focus of the cumulative effects assessment on reasonably foreseeable future projects and activities.</p>

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	13			<p>Additionally, we recommend that NWP approach the issue of cumulative effects of the Project from a more holistic perspective. To assist in this process, and to better understand how the determination that "[n]o significant adverse cumulative effects were anticipated for VCs or VC groups that are related to Aboriginal and Treaty rights and interests" was made, Kainai requests a review of the draft cumulative effects chapter of the environmental assessment.</p>		<p>Updated Section 27.7.4.2 Identifying Past, Present, and Reasonably Foreseeable Projects and/or Activities to outline "past and present projects and activities" inclusion into baseline conditions determination including providing a detailed rationale as to the focus of the cumulative effects assessment on reasonably foreseeable future projects and activities.</p>	<p>NWP to provide EA chapters for review to Kainai during the review phase.</p> <p>NWP correspondence to Kainai (dated November 29, 2021) regarding "past and present projects and activities" inclusion into baseline conditions determination including rationale as to the focus of the cumulative effects assessment on reasonably foreseeable future projects and activities.</p>
	14	23.7.8	Impacts on Rights and Interests	<p>Additionally, it is unclear to Kainai how NWP has determined that the Project will have "not significant" impacts on Kainai's Aboriginal and Treaty rights. Further information is required from Kainai in order for NWP to make this claim.</p>		<p>Updated Section 27.10 Assessment of Potential Impacts on the Kainai's Rights and Interests to outline assessment of potential for impacts on the Kainai's rights and interests described in consideration of the existing and potential future use of the Project footprint, the ATRI LSA, and the ATRI RSA by the Kainai to exercise their rights and interests with and without the Project. This section includes a comparison of the impacts on the Kainai's rights and interests in terms of the potential future exercise of the Kainai's rights and interests in the Project footprint, the ATRI LSA, and the ATRI RSA.</p>	<p>NWP notes that engagement discussions and consultation with the Kainai are ongoing and information provided will be reviewed and considered.</p>